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ATTORNEYS FOR DEFENDANT DELTA FAUCET COMPANY

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SAN FRANCISCO TECHNOLOGY INC.,

Plaintiff,

v.

ADOBE SYSTEMS INCORPORATED, THE  
BRITA PRODUCTS COMPANY, DELTA  
FAUCET COMPANY, EVANS  
MANUFACTURING INC., THE EVERCARE  
COMPANY, GRAPHIC PACKAGING  
INTERNATIONAL INC., MAGNUM  
RESEARCH INC., PAVESTONE COMPANY  
LP, THE PROCTOR & GAMBLE  
COMPANY, S.C. JOHNSON & SON INC.,  
SPECTRUM BRANDS INC., SUPER SWIM  
CORP., UNILOCK INC., WEST COAST  
CHAIN MFG. CO.,

Defendants.

Case No: 5:09-cv-06083-RS

Judge: Hon. Richard Seeborg

Date: April 8, 2010

Time: 1:30 p.m.

Courtroom: 3, 17<sup>th</sup> Floor (San Francisco)

**DEFENDANT DELTA FAUCET  
COMPANY'S NOTICE OF MOTION AND  
JOINDER IN MOTION TO STAY FILED  
BY CO-DEFENDANT THE PROCTOR &  
GAMBLE COMPANY**

Complaint Filed: December 30, 2009

DEFENDANT DELTA FAUCET COMPANY'S NOTICE OF MOTION AND JOINDER IN MOTION TO  
STAY FILED BY CO-DEFENDANT THE PROCTOR & GAMBLE COMPANY  
CASE NO. 5:09-CV-06083 RS (HRL)

**NOTICE OF MOTION**

PLEASE TAKE NOTICE, that on April 8, 2010 at 1:30 p.m., or as soon thereafter as this matter may be heard, before the Honorable Judge Richard Seeborg, at the United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, California 94102, Defendant Delta Faucet Company (“Delta”), by and through its counsel of record, will move the Court to stay all proceedings in this case until the Federal Circuit issues a decision on the merits in *Stauffer v. Brooks Bros.*, Appeal Nos. 2009-1428, 2009-1430, 2009-1453, which present the exact issue that has been put before this Court in two motions to dismiss for lack of subject matter jurisdiction. To that end, Delta hereby joins in Defendant The Proctor & Gamble Company’s March 1, 2010 Notice of Motion and Motion to Stay and incorporates the contents of that notice of motion and motion to stay herein by reference. This Motion is based on the Memorandum of Points and Authorities herein, the pleadings and papers on file in this action, such matters as the Court may take judicial notice, and argument and evidence to be presented at the hearing on this Motion.

**CONCISE STATEMENT OF RELIEF SOUGHT**

While Delta does join in the motion to stay, it respectfully requests that the Court first resolve Delta’s pending motion to sever and transfer to the Southern District of Indiana. In the event that the Court addresses the pending motions in a different order, Delta seeks a stay of all proceedings in this case until the Federal Circuit issues a ruling in *Stauffer*.

**MEMORANDUM OF POINTS AND AUTHORITIES**

Delta hereby joins in Defendant The Proctor & Gamble Company’s March 1, 2010 Notice of Motion and Motion to Stay and requests the Court stay this case until the Federal Circuit issues a decision on the merits in *Stauffer v. Brooks Bros.* for the reasons set forth

1 therein. Delta incorporates the contents of The Proctor & Gamble's Company's Notice of  
2 Motion and Motion to Stay herein by reference.<sup>1</sup>

3  
4 Dated: March 1, 2010

Respectfully submitted,

5 FOLEY & LARDNER LLP

6 BY: /s/ Justin E. Gray

7 Allen A. Arntsen

8 Robert E. Camors, Jr.

9 Kimberly K. Dodd

Justin E. Gray

Attorneys for Defendant

Delta Faucet Company

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24 <sup>1</sup> Further, Delta brings to the Court's attention that there is another appeal currently  
25 pending before the Federal Circuit, *Pequignot v. Solo Cup Co.*, Appeal No. 2009-1547, which  
26 concerns a false marking claim under 35 U.S.C. § 292 The decision in *Pequignot* is likely to be  
27 issued this year and may also inform the court as to issues raised in this action.